

EXHIBIT B

1 Daniel A. Sasse (State Bar No. 236234)
2 CROWELL & MORING LLP
3 3 Park Plaza, 20th Floor
4 Irvine, California 92614
5 Telephone: 949.263.8400
6 Facsimile: 949.263.8414
7 DSasse@crowell.com

8 *Attorney for Defendants Optium Capital LLC,*
9 *Neil Kornswiet, Tony Raleigh, David Sloan,*
10 *and Hugh Alexander*

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CASCADE SETTLEMENT SERVICES LLC,
a Delaware limited liability company,

Plaintiff,

v.

OPTIUM CAPITAL LLC, a Wyoming
limited liability company; NEIL
KORNSWIET, an individual; TONY
RALEIGH, an individual; DAVID SLOAN,
an individual; HUGH ALEXANDER, an
individual; and DOES 1-50, inclusive,

Defendants.

Case No.:

**DEFENDANTS OPTIUM CAPITAL
LLC, NEIL KORNSWIET, TONY
RALEIGH, DAVID SLOAN, AND
HUGH ALEXANDER'S NOTICE OF
REMOVAL**

Complaint Filed: August 13, 2024

Removed From: Superior Court of the
State of California, City and County of
Marin, Case No. CV0003663

THIS COURT HAS DIVERSITY JURISDICTION

This action may be removed under 28 U.S.C. § 1441(a) because this Court has original jurisdiction under 28 U.S.C. § 1332(a). District courts have original jurisdiction over all civil actions (1) where the amount in controversy exceeds \$75,000, exclusive of interest and costs, and (2) between “citizens of different States.” 28 U.S.C. § 1332(a).

Complete diversity currently exists in this case under section 1441(b)(2). Courts have consistently held that a forum defendant does not actually exist until that defendant has been properly joined and served. *McCall v. Scott*, 239 F.3d 808, 813 n.2 (6th Cir.), amended on denial of reh’g, 250 F.3d 997 (6th Cir. 2001) (“the inclusion of an unserved resident defendant in [an] action does not defeat removal” based on diversity jurisdiction.”); *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147, 154 (3d. Cir. 2018) (upholding removal and noting that while it requires “pre-service machinations to remove a case that [] otherwise could not [be removed]...[T]he plain meaning of the statute” and the absence of “an extraordinary showing of contrary legislative intent” require removal); *Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699, 707 (2d Cir. 2019) (holding removal “is neither absurd nor fundamentally unfair.” “Put simply, the result here—that a home-state defendant may in limited circumstances remove actions filed in state court on the basis of diversity of citizenship—is authorized by the text of Section 1441(b)(2)[.]”); *Texas Brine Co., L.L.C. v. Am. Arb. Ass’n, Inc.*, 955 F.3d 482, 487 (5th Cir. 2020) (holding the court does not have “any doubt about the propriety of removal because . . . the text [section 1441(b)(2)] is unambiguous.”); *Kornfeind v. Kia Am., Inc.*, No. 8:23-cv-01796-JVS(KESx), 2023 WL 8456111, at *2 (C.D. Cal. Dec. 6, 2023) (“The plain language of the statute makes clear that only if a forum defendant has not been ‘properly joined and served’ may an action not be removed.”). “[T]he Northern District of California has consistently held a defendant may remove an action prior to receiving proper service, even when the defendant resides in the state in which the plaintiff filed the state claim.” *Humana Inc. v. Handa Pharms., LLC*, No. 23-cv-01550-DMR, 2023 WL 5227191, at *3 (N.D. Cal. Aug. 15, 2023) (quotations omitted); *see also Fobb v. Uber Techs., Inc.*, No. 21-cv-07778-HSG, 2022 WL 620336, at *2 (N.D. Cal. Mar. 3, 2022) (recognizing “nearly unanimous[] support” in the Northern District of California); *Monfort v.*

1 *Adomani, Inc.*, No. 18-CV-05211-LHK, 2019 WL 131842, at *4 (N.D. Cal. Jan. 8, 2019) (“plain
2 language” of section 1441(b)(2) “permits an in-state defendant who has not been both joined and
3 served to remove a case to federal court on the basis of diversity jurisdiction.”). Because no forum-
4 resident Defendant has been “properly joined and served” within the meaning of section 1441(b)(2),
5 complete diversity exists between the parties.

6 If the complaint does not specify damages, a defendant may establish that it is “more likely
7 than not” that the amount in controversy exceeds the jurisdictional requirement. *Guglielmino v.*
8 *McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 1996); *see also Lewis v. Verizon Comm’ns, Inc.*,
9 627 F.3d 395, 401 (9th Cir. 2010) (removal based on diversity was proper where declaration
10 established “Plaintiff is seeking recovery from a pot that Defendant has shown could exceed” the
11 amount in controversy requirement).

12 Although Defendants deny liability, if Plaintiff were to prevail on its claims, it is more likely
13 than not that the amount in controversy would significantly exceed \$75,000, not including interest
14 and costs. The Complaint seeks damages and disgorgement of profits arising from the alleged
15 breach and tortious interference of contract claims against Defendants. Compl., “Prayer for Relief,”
16 ¶¶ 4-5. At the core of its claims, Plaintiff alleges that this case arises out of agency contracts for
17 clients entitled to class action settlement claims, including claims in *In re: Payment Card*
18 *Interchange Fee and Merchant-Discount Antitrust Litig.*, Case No. 1:05-md-01720-MKB-VMS
19 (E.D.N.Y.) (the “*Visa Antitrust Litigation*”). *Id.* ¶¶ 13, 14, 34. The court in E.D.N.Y. has already
20 established a procedure to review these precise claims. Plaintiff admits that these disputes have
21 been raised in that process. *Id.* ¶¶ 33, 40, 41, 46, 50. Without these claims, Plaintiff has no case.

22 Plaintiff allegedly entered into agency agreements with the Vail Corporation (“Vail”),
23 Peet’s Coffee and Tea, Inc. (“Peet’s”), Sleepy’s, LLC (“Sleepy’s”), The Sleep Train, Inc. (“Sleep
24 Train”), and Redcats USA, Inc. (now FullBeauty Brands, L.P.) (“FullBeauty Brands”), whereby
25 these companies purportedly “appoint[ed] Cascade to act as their agent to file claims on their behalf
26 in class action settlements, in exchange for a contingency fee upon recovery.” *Id.* ¶¶ 13, 38, 48,
27 55, 56, 63. Plaintiff alleges that these agency agreements were entered into prior to its 2015
28 settlement with Optium, making these companies “then-existing Cascade Client[s]” per the terms

1 of the settlement agreement. *Id.* ¶¶ 25, 38, 48, 55, 56, 63. Plaintiff alleges that the settlement
2 agreement requires Optium to “assume [these entities’] Cascade Agency Contracts whenever
3 Optium purchased” these claims, and thereafter allow Cascade to assume the claims filing process
4 for these claims. *Id.* ¶ 25.

5 In 2018, the *Visa Antitrust Litigation* settled for “approximately \$5.5 billion.” *Id.* ¶ 14. The
6 Complaint alleges that the “financial compensation received by Cascade through its agency
7 agreements depends on the value of claim recovery,” which is determined by the Claims
8 Administrator in the *Visa Antitrust Litigation*. *Id.* ¶¶ 31-32. Optium conducts its own analyses to
9 determine the likely value of an entity’s settlement claim when evaluating at what price to purchase
10 the claim. *See* Decl. of Daniel A. Sasse ¶ 8. Optium purchased class action claims from Vail,
11 Peet’s, Sleepy’s, Sleep Train, and FullBeauty Brands in the *Visa Antitrust Litigation*. *Id.* ¶ 9.
12 Although the individual purchase price for each claim is confidential, the aggregate purchase price
13 for these claims exceeds \$5 million. *Id.* ¶ 10. Plaintiff has claimed, through its agreements with
14 Vail, Peet’s, Sleepy’s, Sleep Train, and FullBeauty Brands, its total contingency fee would exceed
15 10% of the total settlement recovery for these claims. *Id.* ¶ 12. Based on the allegations in the
16 Complaint and a contingency fee of 10-30% (the standard term and range of Spectrum’s filing
17 agreements) on a \$5 million total recovery, it is more likely than not that the amount in controversy
18 far exceeds the \$75,000 threshold requirement.

19 **THIS COURT HAS FEDERAL QUESTION JURISDICTION**

20 Under 28 U.S.C. § 1331, “[t]he district courts shall have original jurisdiction of all civil
21 actions arising under the Constitution, laws, or treaties of the United States.” Whether a case “arises
22 under” federal law is be determined based on the contents of a “well-pleaded complaint.”
23 *Franchise Tax Bd. v. Constr. Laborers Vacation Tr.*, 463 U.S. 1, 9-10 (1983).

24 A “longstanding . . . variety of federal ‘arising under’ jurisdiction” is when state-law claims
25 “implicate significant federal issues.” *Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg.*,
26 545 U.S. 308, 312 (2005). The Supreme Court has recognized this category of federal question
27 jurisdiction “for nearly 100 years,” acknowledging that such cases “indicat[e] a serious federal
28 interest in claiming the advantages thought to be inherent in a federal forum.” *Id.* at 312-313. In

determining whether claims arise under federal law, courts consider whether a federal issue is: (1) “necessarily raised,” (2) “actually disputed,” (3) “substantial,” and (4) “capable of resolution in federal court without disrupting the federal-state balance approved by Congress.” *Gunn v. Minton*, 568 U.S. 251, 258 (2013); *see Grable*, 545 U.S. at 314.

A. Plaintiff’s Claims Necessarily Raise Substantial Issues Implicating Federal Antitrust Law.

A federal issue is “necessarily raised” and is “actually disputed” where “the vindication of [Plaintiff’s] right[s] under state law necessarily turn[s] on some construction of federal law.” *Hornish v. King Cnty.*, 899 F.3d 680, 689-690 (9th Cir. 2018); *see also Tantaros v. Fox News Network, LLC*, 12 F.4th 135, 141 (2d. Cir. 2021) (“federal jurisdiction exists if a court must apply federal law to the plaintiff’s claim in order to decide the case.”).

As the Complaint makes clear, federal issues are “actually disputed” because Plaintiff’s state law claims stem from settlement claims in the *Visa Antitrust Litigation*. *Gunn*, 568 U.S. at 259 (federal issue is “actually disputed” because “on the merits, it is the central point of dispute.”) And these federal issues are necessarily implicated because the validity of Plaintiff’s state law claims depends on the resolution of the class action settlement claim disputes within the ongoing *Visa Antitrust Litigation*. *See, e.g., Hornish*, 899 F.3d at 689-690 (state law claims implicate federal law because resolution of dispute turns on interpretation of federal issue); *Wapato Heritage LLC v. Evans*, 430 Fed App’x 557, 559 (9th Cir. 2011) (affirming finding of federal question jurisdiction for breach of contract and tortious interference claims “because federal law sets conditions for the Settlement Agreement’s validity and effectiveness.”). Plaintiff’s success on its state law claims depend on whether or not Vail, Peet’s, Sleepy’s, Sleep Train, and FullBeauty Brands have sufficiently shown they are entitled to recover settlement funds under the federal antitrust class action.

A claimant in the *Visa Antitrust Litigation* must register and submit its claims with the appointed Claims Administrator, who ultimately determines the validity and value of the claimant’s settlement claim. Compl. ¶¶ 16, 32. To illustrate, once Vail submits a claim for recovery, the Claims Administrator then evaluates whether Vail has a legitimate claim, and is thus a class

1 member in the underlying antitrust litigation. If the Claims Administrator determines that Vail does
2 not have a valid claim in the *Visa Antitrust Litigation*, then Plaintiff’s alleged contractual right to
3 process Vail’s settlement claims does not arise; Vail would have no claim to recovery funds, and
4 Plaintiff in turn would not collect a contingency fee for Vail’s class action claim. In other words:
5 if Plaintiff’s claim in the federal antitrust litigation fails, then its state law contract claims against
6 Defendants likewise cannot stand. Because the validity of Plaintiff’s claims in the *Visa Antitrust*
7 *Litigation* form the basis of its state law claims, the state law claims at issue necessarily implicate
8 federal issues.

9 **B. Plaintiff’s Claims Can and Should Be Resolved in Federal Court to Preserve**
10 **the Federal Court’s Authority and Ability to Effectuate Judgments.**

11 Removal for federal question jurisdiction is proper where the federal issues are “importan[t]
12 . . . to the federal system as a whole.” *Hornish*, 899 F.3d at 690. The Government has a strong
13 interest in “the availability of a federal forum to vindicate . . . an important issue of federal law that
14 sensibly belong[s] in a federal court.” *Id.* (quotations omitted); *see also Grable*, 545 U.S. at 312.

15 Plaintiff’s claims are best resolved in federal court, where these issues have already been
16 litigated for nearly two decades. As alleged in the Complaint, the *Visa Antitrust Litigation* has a
17 long and complex procedural history—which includes an initial settlement in 2012, later vacated
18 on appeal, and eventually followed by a second settlement that was finally approved in 2018.
19 Compl. ¶ 14. In addition, “[b]ecause of the size and complexity of the class and claims process,
20 Plaintiff expects the claims filing and approval process to continue into 2025, with payments to
21 class members no sooner than 2025, if not later.” *Id.* Given the obvious complexities in evaluating
22 claim disputes, the government has a strong interest in leaning on the “experience, solicitude, and
23 hope of uniformity that [the] federal forum offers” in resolving Plaintiff’s claims. *Grable*, 545 U.S.
24 at 312. In fact, the *Visa Antitrust Litigation* already sets forth procedures “to resolve any disputes
25 or matters arising out of or relating to the Plan of Administration and Distribution” of the settlement
26 funds, including the claims process. Order Appointing Special Master at 1, *Visa Antitrust*
27 *Litigation*, ECF No. 8883. As a result, not only is the federal court “capable” of evaluating these
28 issues, but is the forum best suited to resolving Plaintiff’s claims. The Government has a strong

1 interest in removal in order to reinforce the federal court’s authority to decide substantial issues of
2 federal law and to avoiding unnecessary litigation. Because Plaintiff’s state law claims implicate
3 significant federal issues, removal based on federal “arising under” jurisdiction is appropriate.

4 **COPIES OF STATE-COURT DOCUMENTS AND STATE-COURT NOTICE**

5 Because none of the Defendants have been served, it is not possible for Defendants to
6 include with its Notice of Removal “a copy of all process, pleadings, and orders served upon such
7 . . . defendants in such [state court] action.” 28 U.S.C. § 1446(a). However, Defendants have
8 obtained a copy of the unserved state-court Complaint and a copy of the state-court docket sheet as
9 well as any filings thereof, which are attached as Exhibit A to the accompanying Declaration of
10 Daniel A. Sasse. In accordance with 28 U.S.C. § 1446(d), Defendants are concurrently filing a
11 Notice of Filing of Notice of Removal with exhibits, which includes a copy of this Notice of
12 Removal and accompanying exhibits, with the Clerk of the Superior Court of the State of
13 California, City and County of Marin, and providing written notice to Plaintiff. *See* Exhibit B.

14
15 Dated: August 19, 2024

Respectfully submitted,

16 CROWELL & MORING LLP

17 /s/ Daniel A. Sasse
18 Daniel A. Sasse (State Bar No. 236234)
19 CROWELL & MORING LLP
20 3 Park Plaza, 20th Floor
21 Irvine, California 92614
22 Telephone: 949.263.8400
23 Facsimile: 949.263.8414
24 DSasse@crowell.com

25 *Attorney for Defendants Optium Capital LLC,*
26 *Neil Kornswiet, Tony Raleigh, David Sloan, and*
27 *Hugh Alexander*

CERTIFICATE OF SERVICE

I, Daniel A. Sasse, the undersigned, hereby declare as follows:

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. I am employed by Crowell & Moring LLP, counsel of record for Defendants Optium Capital LLC, Neil Kornswiet, Tony Raleigh, David Sloan, and Hugh Alexander (collectively, “Defendants”) in the removed action captioned above. My business and mailing address is 3 Park Plaza, 20th Floor, Irvine, CA 92614.

On August 19, 2024, I served and caused to be served true and correct copies of the following document(s):

- Defendants’ Notice of Removal
- Declaration of Daniel A. Sasse in Support of Defendants’ Notice of Removal and accompanying exhibits

by sending them via electronic transmission and couriering physical copies to be delivered on August 20, 2024 to the following persons at the mail addresses below:

Kassra P. Nassiri (215405)
kass@njfirm.com
Russell Taylor (320375)
russ@njfirm.com
NASSIRI & JUNG LLPs
1700 Montgomery Street, Suite 207
San Francisco, California 94111
Telephone: (415) 762-3100
Facsimile: (415) 534-3200

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of August, 2024, in Irvine, California.

Dated: August 19, 2024

/s/ Daniel A. Sasse
Daniel A. Sasse

1 Daniel A. Sasse (State Bar No. 236234)
2 CROWELL & MORING LLP
3 3 Park Plaza, 20th Floor
4 Irvine, California 92614
5 Telephone: 949.263.8400
6 Facsimile: 949.263.8414
7 DSasse@crowell.com

8 *Attorney for Defendants Optium Capital LLC,
9 Neil Kornswiet, Tony Raleigh, David Sloan, and
10 Hugh Alexander*

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CASCADE SETTLEMENT SERVICES LLC,
a Delaware limited liability company,

Plaintiffs,

v.

OPTIUM CAPITAL LLC, a Wyoming
limited liability company; NEIL
KORNSWIET, an individual; TONY
RALEIGH, an individual; DAVID SLOAN,
an individual; HUGH ALEXANDER, an
individual; and DOES 1-50, inclusive,

Defendants.

Case No.:

**DECLARATION OF DANIEL A. SASSE
IN SUPPORT OF DEFENDANTS
OPTIUM CAPITAL LLC, NEIL
KORNSWIET, TONY RALEIGH,
DAVID SLOAN, AND HUGH
ALEXANDER'S NOTICE OF
REMOVAL**

Removed from: Superior Court of the State
of California, City and County of Marin,
Case No. CV0003663

1 I, Daniel A. Sasse, declare as follows:

2 1. I am an active member in good standing of the bar of the State of California, and I
3 am admitted in the U.S. District Court for the Northern District of California. I am a partner in the
4 law firm of Crowell & Moring LLP and counsel of record for Optium Capital LLC (“Optium”),
5 Neil Kornswiet, Tony Raleigh, David Sloan, and Hugh Alexander (collectively, “Defendants”) in
6 the above-captioned matter. I have personal knowledge of the facts set forth herein and, if called
7 upon, could and would competently testify thereto under oath.

8 2. I submit this declaration in connection with Defendants’ Notice of Removal, filed
9 contemporaneously herewith.

10 3. Attached as Exhibit A is a true and correct copy of all purported “process, pleadings
11 and orders” that Defendants received on August 15, 2024, in connection with the Complaint filed
12 in the Superior Court of the State of California, City and County of Marin, Case No. CV0003663
13 against Defendants on August 13, 2024.

14 4. Attached as Exhibit B is a true and correct copy of the Notice of Filing of the Notice
15 of Removal to be promptly filed with the Clerk of the Superior Court of the State of California,
16 City and County of Marin, providing the Superior Court with a copy of Defendants’ Notice of
17 Removal.

18 5. Defendants have not been served process, or been subject to an attempt at purported
19 service of process.

20 6. All Defendants have consented to file the Notice of Removal.

21 7. Optium purchases class action claims from members of class action lawsuits,
22 including class action claims in *In re: Payment Card Interchange Fee and Merchant-Discount*
23 *Antitrust Litig.*, Case No. 1:05-md-01720-MKB-VMS (E.D.N.Y.) (the “*Visa Antitrust Litigation*”).

24 8. Optium analyzes the value of recovery funds that individuals and entities are likely
25 to be entitled to in class action settlements in order to determine an appropriate purchase price for
26 a specific class settlement claim. Optium’s business model is to purchase class action claims at an
27 amount lower than the expected recovery fund, in order for the company to collect a higher return
28 from the actual settlement recovery.

DECLARATION OF DANIEL A. SASSE IN SUPPORT OF DEFENDANTS' NOTICE OF REMOVAL

EXHIBIT A



MARIN COUNTY SUPERIOR COURT

COUNTY OF MARIN - ePORTAL

CV0003663

CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming
Marin

[Case](#)

[Filings](#)

[Parties](#)

[Documents](#)

[Events](#)

[Case Transfer](#)

Summary

▼ Parties

Type	Name	Represented By
Complaint - Contract: Breach Cont/Warranty (06) filed on 08/13/2024		
Plaintiff	CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company	Nassiri, Kassra P.
Defendant	OPTIUM CAPITAL LLC, a Wyoming limited liability company	
Defendant	KORNSWIET, NEIL	
Defendant	RALEIGH, TONY	
Defendant	SLOAN, DAVID	
Defendant	ALEXANDER, HUGH	

Next Event

Next Event

12/13/2024 9:00 AM Case Management Conference in Courtroom A

▼ Events

Date/Time	Type	Official	Location
12/13/2024 09:00 AM	Case Management Conference	Freccero	Courtroom A



MARIN COUNTY SUPERIOR COURT

COUNTY OF MARIN - ePORTAL

CV0003663

CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al

[Case](#) [Filings](#) [Parties](#) [Documents](#) [Events](#) [Case Transfer](#)

Filings

Case

Filing Date	Case Caption	Disposition
08/13/2024	CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al	

Filings

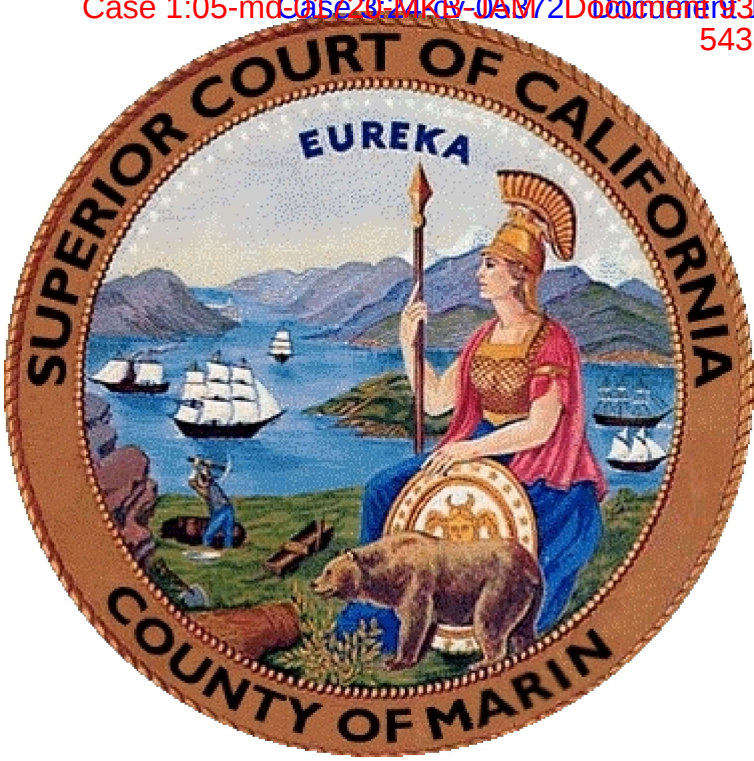
Filing	Disposition
Complaint - Contract: Breach Cont/Warranty (06) filed on 08/13/2024	
Plaintiff CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company	
Defendant OPTIUM CAPITAL LLC, a Wyoming limited liability company	
Defendant KORNSWIET, NEIL	
Defendant RALEIGH, TONY	

Filing

Disposition

Defendant SLOAN, DAVID

Defendant ALEXANDER, HUGH



MARIN COUNTY SUPERIOR COURT

COUNTY OF MARIN - ePORTAL

CV0003663

CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming
Marin

[Case](#) [Filings](#) [Parties](#) [Documents](#) [Events](#) [Case Transfer](#)

Parties

▼ Parties

Type	Name	Represented By
Complaint - Contract: Breach Cont/Warranty (06) filed on 08/13/2024		
Plaintiff	CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company	Nassiri, Kassra P.
Defendant	OPTIUM CAPITAL LLC, a Wyoming limited liability company	
Defendant	KORNSWIET, NEIL	
Defendant	RALEIGH, TONY	
Defendant	SLOAN, DAVID	
Defendant	ALEXANDER, HUGH	



MARIN COUNTY SUPERIOR COURT

COUNTY OF MARIN - ePORTAL

CV0003663

CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al

[Case](#) [Filings](#) [Parties](#) [Documents](#) [Events](#) [Case Transfer](#)

Documents

▼ Documents

Filed	Description	Filed By
CV0003663 : CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al		
08/13/2024	Complaint FILED	Plaintiff - CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company
08/13/2024	Summons FILED	Plaintiff - CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company
08/13/2024	Civil Case Cover Sheet FILED	Plaintiff - CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company
08/13/2024	Notice - Case Management Conference	Clerk
08/13/2024	Notice - Judicial Assignment	Clerk



MARIN COUNTY SUPERIOR COURT

COUNTY OF MARIN - ePORTAL

CV0003663

CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al

[Case](#)

[Filings](#)

[Parties](#)

[Documents](#)

[Events](#)

[Case Transfer](#)

Events

▼ Events

Date/Time	Type	Result	Official	Location
CV0003663: CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al				
12/13/2024 09:00 AM	Case Management Conference		Freccero	Courtroom A
Complaint - Contract: Breach Cont/Warranty (06) filed on 08/13/2024				



MARIN COUNTY SUPERIOR COURT

COUNTY OF MARIN - ePORTAL

CV0003663

CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming

Marin

[Case](#)

[Filings](#)

[Parties](#)

[Documents](#)

[Events](#)

[Case Transfer](#)

Case Transfer



SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

OPTIUM CAPITAL LLC, a Wyoming
limited liability company; NEIL
KORNSWIET, an individual; TONY
RALEIGH, an individual; DAVID SLOAN,
an individual; HUGH ALEXANDER, an
individual; and DOES 1-50, inclusive
Defendants.

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE): CASCADE SETTLEMENT SERVICES
LLC, a Delaware limited liability company,
Plaintiff,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED

Superior Court of California
County of Marin

08/13/2024

James M. Kim, Clerk of the Court

By: D. Harrison, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Marin County Superior Court

3501 Civic Center Drive, San Rafael, California 94903

CASE NUMBER:
(Número del Caso):

CV0003663

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Kassra P. Nassiri (215405), kass@njfirm.com, NASSIRI & JUNG LLP, 1700 Montgomery Street, Suite 207, San Francisco, CA 94111

DATE:

(Fecha) **08/13/2024**

Clerk, by

James M. Kim

(Secretario)

D. Harrison

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):

ELECTRONICALLY FILED
Superior Court of California
County of Marin
08/13/2024
James M. Kim, Clerk of the Court
By: D. Harrison, Deputy

Kassra P. Nassiri (215405)
(kass@njfirm.com)
Russell Taylor (320375)
russ@njfirm.com
NASSIRI & JUNG LLP
1700 Montgomery Street, Suite 207
San Francisco, California 94111
Telephone: (415) 762-3100
Facsimile: (415) 534-3200

Attorneys for Plaintiff
CASCADE SETTLEMENT SERVICES LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF MARIN

CASCADE SETTLEMENT SERVICES
LLC, a Delaware limited liability company,

Plaintiff,

v.

OPTIUM CAPITAL LLC, a Wyoming
limited liability company; NEIL
KORNSWIET, an individual; TONY
RALEIGH, an individual; DAVID SLOAN,
an individual; HUGH ALEXANDER, an
individual; and DOES 1-50, inclusive

Defendants.

Case No. CV0003663

COMPLAINT FOR:

- 1. Breach of Contract**
- 2. Anticipatory Breach of Contract**
- 3. Declaratory Relief**
- 4. In the Alternative: Intentional Interference with Prospective Economic Relations**
- 5. Preliminary and Permanent Injunction**

JURY TRIAL DEMANDED

1 Plaintiff Cascade Settlement Services LLC (“Plaintiff” or “Cascade”) complains and alleges
2 as follows:

3 **I. PARTIES**

4 1. Plaintiff Cascade Settlement Services LLC (“Cascade”) is a Delaware limited
5 liability company, with its principal places of business during the relevant period in the City of Mill
6 Valley in the County of Marin. Cascade is in the business of providing financial services to
7 members of class action settlements, specifically through claims filing and claims monetization in
8 connection with these settlements. Cascade has acquired several interests and entities over the years,
9 including Claimco LLC (“Claimco”), Spectrum Settlement Recovery, LLC (“Spectrum”), and
10 Cascade continues to operate as Claimco or Spectrum. For purposes of this complaint, references to
11 Cascade shall also refer to Spectrum, Claimco and other affiliates, subsidiaries and related entities,
12 and vice versa.

13 2. Defendant Optium Capital LLC (“Optium”) is, upon information and belief, a
14 Wyoming limited liability company with its principal place of business in Newport Beach,
15 California. Optium purchases class action claims from class members.

16 3. Defendant Neil Kornswiet (“Kornswiet”) is an individual who, upon information and
17 belief, resides in Orange County, California. At all relevant times, Kornswiet has served as Optium’s
18 Chief Executive Officer.

19 4. Defendant Tony Raleigh is an individual who, upon information and belief, resides in
20 Orange County, California. At all relevant times, Raleigh has served as Optium’s Chief Investment
21 Officer.

22 5. Defendant David Sloan is an individual who, upon information and belief, resides in
23 in the County of San Francisco. At all relevant times, Sloan has served as Optium’s Chief Financial
24 Officer.

25 6. Defendant Hugh Alexander is, upon information and belief, an individual residing in
26 Spain. At all relevant times, Alexander has served as Optium’s General Counsel.

27 7. The true names and capacities, whether individual, corporate, or otherwise of the
28 Defendants named in this Complaint as Does 1 through 50, inclusive, are unknown to Plaintiff.

1 Plaintiff is informed and believes, and on that basis alleges, that each of said fictitiously named
2 Defendants is liable to Plaintiff on the causes of action herein alleged and/or asserts some interest,
3 legal or equitable, in the subject matter of this action, and therefore Plaintiff sues said Defendants by
4 said fictitious names. Plaintiff will substitute named Defendants for fictitiously named Defendants
5 as the true names and capacities of fictitiously named Defendants are determined.

6 8. Plaintiff is informed and believes, and on that basis alleges, that at all times
7 mentioned in this Complaint the Defendants, and each of them, were the agents, servants,
8 employees, and/or alter egos of each of the other Defendants, and in doing the things alleged in this
9 Complaint were acting within the scope of their authority as such agent, servant, employee, and/or
10 alter ego, and with the permission and consent of the other Defendants.

11 **II. JURISDICTION AND VENUE**

12 9. The Court has jurisdiction over this action pursuant to Cal. Civ. Proc. Code § 410.10,
13 which provides that a court “may exercise jurisdiction on any basis not inconsistent with the
14 Constitution of this state or of the United States.” Jurisdiction is constitutionally warranted because
15 each Defendant has availed itself of this Court’s jurisdiction by conducting business, owning
16 property, maintaining bank accounts, residing, and/or entering into contracts in California.

17 10. Venue is proper in this County pursuant to Cal. Civ. Proc. Code §§ 395(a) and 395.5
18 because the contract at issue in this Complaint was entered into in Marin County; and because
19 Defendants’ breaches of the contract occurred in large part in Marin County.

20 11. As a direct and proximate result of Defendant’s conduct described herein, Plaintiff
21 has been damaged in an amount that exceeds \$25,000, said amount to be proven at trial.

22 **III. FACTUAL ALLEGATIONS**

23 12. This case arises out of a 2015 settlement arising from Optium’s misappropriation of
24 Plaintiff’s trade secrets, unfair competition and interference with Plaintiff’s contracts and other
25 business interests. Rather than comply with the terms of the settlement, Optium has engaged in
26 numerous surreptitious and fraudulent acts designed to conceal its breaches of the settlement
27 agreement, to take control over the subject claims, and to avoid its financial obligations to Cascade.
28

1 Plaintiff was left with no choice but to file this Complaint to give effect to the terms of its settlement
2 agreement with Optium.

3 13. Among other things, Plaintiff Cascade provides filing services to individuals and
4 entities entitled to recover funds from class action lawsuit settlements. Clients typically appoint
5 Cascade to act as their agent to file claims on their behalf in class action settlements, in exchange for
6 a contingent fee upon recovery. Cascade also purchases class action claims from class members in
7 pending class action litigation that may or may not result in a settlement.

8 14. One such class action litigation is the 2005 case *In re: Payment Card Interchange*
9 *Fee and Merchant-Discount Antitrust Litigation* (Case No. 1:05-md-01720-JG-JO; E.D.N.Y.) (the
10 “Visa Antitrust Litigation”). Plaintiff—including the companies and businesses it has acquired over
11 the years, such as Claimco LLC and Spectrum Settlement Recovery, LLC—has been engaged in
12 analyzing and developing proprietary information in the Visa Antitrust Litigation since at least 2007,
13 and hundreds of class members have hired Plaintiff to serve as their agent in that litigation
14 (“Cascade Agency Contracts”). The case initially settled in 2012 but was vacated on appeal to the
15 Second Circuit. The case settled again in 2018 for approximately \$5.5 billion and, after a subsequent
16 appeal, became final in 2023. The process for submitting claims began in December 2023 and is
17 underway. Because of the size and complexity of the class and claims process, Plaintiff expects the
18 claims filing and approval process to continue into 2025, with payments to class members no sooner
19 than 2025, if not later.

20 15. The class action claim fulfillment process is quite technical and often spans years. It
21 begins long before the claims are filed and can continue for years after filing. To prepare for the
22 eventual claims filing in connection with the Visa Antitrust Litigation, Cascade has over the years
23 and at great expense continually gathered data and engaged economists to analyze and model the
24 claims recovery for its clients’ claims and claims Cascade has purchased, and to evaluate and
25 scrutinize the claims administrator’s data and calculations. Cascade’s team has also engaged lawyers
26 to conduct legal analyses of the settlement agreement. Expertise in these steps is needed to recover
27 the full value of the claims.

28 16. As is usual in class action settlements, a claims administrator is retained to provide

1 notice to class members, manage class member data and prepare preliminary claim values, provide
2 and manage interactions with class members in the filing of claims, determine claim values for each
3 class member, and resolve class member disputes. The claims administrator in the Visa Antitrust
4 Litigation is Epiq Systems, Inc. (“Claims Administrator”).

5 17. In connection with its work on the Visa Antitrust Litigation and dozens of other class
6 actions, Cascade has devoted substantial time and money to develop a deep portfolio of proprietary
7 information (“Cascade Proprietary Information”). Cascade Proprietary Information includes the
8 identities and other details for all of Cascade’s clients over the years, such as which class action
9 settlements they have participated in and how much they recovered in those class actions. It also
10 includes economic models, legal analyses, a sales prospect list of entities for all class actions,
11 relevant contact information within those entities, and notes from all conversations with those
12 entities going back to 2002 concerning organizational hierarchies and approval processes, offers,
13 claims, and data gathering efforts.

14 **A. Optium’s Misappropriation of Cascade Proprietary Information and**
15 **Interference with Cascade Contracts, and the 2015 Settlement**

16 18. Optium was founded in 2014 by Neil Kornswiet, its current CEO. Optium is in the
17 business of purchasing class action claims from class members and has been purchasing class
18 members claims in the Visa Antitrust Litigation since its founding. Because Cascade also purchases
19 class member settlement claims, Optium competes directly with Cascade.

20 19. Immediately prior to founding Optium, from approximately September 2013 through
21 February 2014, Kornswiet was the CEO of Cascade. After being employed in that position for a
22 mere five months, having added little value to Cascade, Kornswiet requested the immediate grant of
23 30% of Cascade’s equity, in addition to salary and bonus compensation. When Cascade refused his
24 demand, Kornswiet left Cascade on bad terms to start Optium. Within months, he also arranged the
25 departure of two of Cascade’s most knowledgeable employees—CFO David Sloan and Business
26 Development Officer, Tony Raleigh, who each left Cascade for Optium in 2014. Eventually, Hugh
27 Alexander, in-house counsel for Cascade for many years including 2015, would also join Optium.
28 Alexander currently serves as Optium’s general counsel.

1 20. While at Cascade, Kornswiet, Sloan, Raleigh and Alexander had broad access to
2 Cascade Proprietary Information. This included lists of all of Cascade’s clients, many of whom had
3 engaged Cascade as their agent to file claims in the Visa Antitrust Litigation (“Cascade Clients”).

4 21. Kornswiet, Sloan and Raleigh’s departure to form Optium raised serious concerns
5 over the potential misappropriation of Cascade Proprietary Information. It was widely understood at
6 Cascade that Defendant Raleigh kept much of Cascade’s Proprietary Information—including a
7 comprehensive list of Cascade Clients and details about their contracts with Cascade—on a portable
8 USB drive that he would regularly take home with him. When Raleigh joined Optium, he
9 acknowledged that he had possession of the USB drive but claimed to have destroyed it. In ensuing
10 discussions between the parties, Raleigh and Optium continued to deny having possession of any
11 Cascade Proprietary Information. Cascade was forced to consider taking legal action against Raleigh
12 and Optium to prevent them from undercutting the foundation of Cascade’s business by using the
13 Cascade Proprietary Information.

14 22. The parties engaged in extensive pre-litigation settlement discussions. Cascade’s
15 primary concern was that Optium would use Cascade Proprietary Information to interfere with
16 Cascade’s agency contracts by, among other things, inducing Cascade Clients to terminate their
17 agency agreements with Cascade, and by purchasing class action claims from Cascade Clients.
18 Kornswiet, Sloan and Raleigh each had extensive knowledge of Cascade Proprietary Information,
19 including which merchants had entered into Cascade Agency Contracts and on what terms. Cascade
20 also had concerns that Optium was in possession of tangible copies of Cascade Proprietary
21 Information, including details on the contacts and decision makers at Cascade Client companies and
22 the specific terms of their engagements with Cascade.

23 23. After weeks of negotiations (Kornswiet was the primary party negotiating for both
24 Optium and Raleigh), the parties agreed to compromise and began working on written settlement
25 agreements. The parties exchanged several redlines of the draft agreements, including redlines to
26 what would become Section 2 of the settlement agreement with Optium. In exchange for not
27 pursuing legal and equitable relief, Cascade sought two important concessions from Optium—first,
28 that Optium would not interfere with any Cascade Agency Contracts by encouraging Cascade

1 Clients to cancel those contracts. Second, that should Optium purchase any class member claims
2 from a Cascade Client, Optium would assume Cascade's Agency Contract and allow Cascade to file
3 such claims, deposit receipts into a deposit account, retain its contractual fees, and distribute the
4 balance to Optium.

5 24. During the negotiations, Cascade's concerns about Defendants plans were so acute
6 that it proposed the unusual step of attaching to the settlement a list of all Cascade Clients. Even
7 though Kornswiet, Sloan and Raleigh likely remembered many, if not all, of Cascade's largest
8 clients, Cascade believed that attaching its client list would serve as an acknowledgment by Optium
9 of the specific Cascade Clients, would clearly define the scope of Cascade Clients existing at the
10 time of the settlement, and would mitigate the risk that Optium would interfere with Cascade's
11 Agency contracts, whether inadvertently or intentionally. Kornswiet rejected Cascade's offer to
12 attach a list of Cascade Agency Contracts to the settlement.

13 25. On or around May 28, 2015, Cascade and Optium entered into a written settlement
14 agreement (the "2015 Settlement"). The settlement required that Optium would assume Cascade
15 Agency Contracts whenever Optium purchased claims from a then-existing Cascade Client. It also
16 required that for each Cascade Client, Optium would allow Cascade to control the claims filing
17 process and receive settlement proceeds from the Claims Administrator.

18 26. The 2015 Settlement defines "Company" as "Cascade Settlement Services, LLC and
19 all of its parents, subsidiaries, predecessors and affiliated entities, including Claimco LLC." The
20 2015 Settlement also refers to Spectrum as "Company."

21 27. Section 2 of the 2015 Settlement, entitled "Cooperation and Non-interference,"
22 provides as follows:

23 **2. Cooperation and Non-interference**

24 Optium agrees that it will not use or disclose any Company Confidential
25 Information in any future business activities.

26 Optium also agrees that existing Cascade / Spectrum agency contracts are
27 important assets of the Company and Optium will not knowingly solicit,
28 induce interfere with or otherwise cause a client with an existing Company
agency filing contract ("Filing Contract") to cancel or in any way diminish
the value of that contract to the Company. In order to comply with the

1 terms of this provision, Optium agrees that it and its employees, agents,
2 and anyone acting on its behalf, in any substantive contract negotiations
3 with a potential client, will inquire whether that client has an existing
4 filing contract with another company and, if so, if the company is
5 Cascade/Spectrum. Failure to inquire and obtain the information on any
6 existing filing contract shall constitute a “knowing” violation of this
7 clause.

8 In the event Optium purchases a Visa claim from a Company client,
9 Optium will purchase the entire claim and assume the Filing Contract with
10 the Company on the existing terms. Optium will not seek to purchase a
11 “net claim” leaving the original claimant responsible for a service fee for
12 an asset they no longer own, and therefore, are unlikely to pay. Per the
13 terms of that Filing Contract, the Company will notify the Claims
14 Administrator of its role in servicing the claim, will perform the filing
15 services in a manner similar to the filing services performed for other
16 Company clients according to the Filing Contract, and the Claims
17 Administrator will distribute the settlement recovery check to the
18 Company. The Company will deposit the settlement check in a deposit
19 control account (“DCA”), deduct its contractual service fees, and make a
20 net settlement payment to Optium on the same time schedule and basis as
21 net settlement payments are made to other Company clients. These are the
22 standard terms and procedures of the Company's agency filing contract
23 and Optium will not subvert these terms by directing the Claims
24 Administrator to distribute the settlement check to Optium.

25 28. The second paragraph of Section 2 addresses Cascade’s concern that Optium would
26 encourage Cascade Clients to cancel their contracts with Cascade. This “non-interference”
27 paragraph prohibits Optium from inducing any Cascade Client to “cancel or diminish” a Cascade
28 Agency Contract (the “Non-Interference Provisions”). The paragraph imposes an affirmative
obligation on Optium—intended to “comply with the terms of *this provision*”—to ask any potential
Optium client whether it is also an existing Cascade client (emphasis added). The provisions of this
paragraph apply to all *potential* Optium clients, whether they ever became actual Optium clients.
Importantly, nothing in the 2015 Settlement indicates that compliance with the Non-Interference
Provisions provides Optium with a safe harbor to avoid its obligations to Cascade.

29 29. During the exchange of written drafts, Kornswiet sought to weaken Optium’s
obligation not to interfere with Cascade Agency Contracts and inserted the word “knowingly” in the
first sentence of the Non-Interference Provisions. Cascade responded by adding an additional

1 requirement to the Non-Interference Provisions—that Optium ask each potential Optium client
2 whether it had a contract with Cascade prior to buying any claims. Cascade’s addition illustrates one
3 way, but not the only way, that Optium might “knowingly” interfere with Cascade Agency
4 Contracts.

5 30. The third paragraph of Section 2 applies to all Cascade Clients who sold their claims
6 to Optium. It stands apart from the Non-Interference Provisions. It provides, without qualification or
7 limitations, that should Optium purchase a claim from a Cascade Client, Optium would have to pay
8 Cascade its agency fees as set forth in Cascade’s Agency Contract with that client (the “Cooperation
9 Provisions”). The Cooperation Provisions also require Optium to notify the settlement Claims
10 Administrator that Cascade will control and manage the claims, receive the settlement monies from
11 the Claims Administrator, deduct its fee, and convey the balance of the settlement proceeds to
12 Optium (“Cascade Claim Control Rights”).

13 31. The financial compensation received by Cascade through its agency agreements
14 depends on the value of claim recovery. Cascade – through its management, employees, and agents
15 – brings experience and expertise going back more than 20 years as a leader in claim servicing,
16 filing, and prosecuting well-documented claims to increase the value of recoveries. Cascade
17 obtained the Cascade Claim Control Rights, which give Cascade the irrevocable right to take all
18 steps necessary to obtain any claim recovery, to ensure that the value of claims would not be
19 diminished by less experienced and less capable parties like Optium.

20 32. Inadequate claim filing by Optium—who has little or no expertise in claim filing—
21 would prejudice the value of claims, risk claim filings being delayed or rejected, result in potential
22 lost compensation, and potentially cause substantial and irreparable harm to Cascade. Because of the
23 complexity of claim filing, and the need to prove the value of claims to the Claims Administrator
24 and ultimately the Visa Antitrust Litigation court, it is effectively impossible to determine on an ex
25 post facto basis the additional value that Cascade would have added to any claim had Optium not
26 interfered with the Cascade Claim Control Rights.

27 **B. Optium’s Breach of the 2015 Settlement**

28 33. The Visa Antitrust Litigation finally moved into settlement claims processing in 2023

1 and all participating class members, or their agents or transferees, have registered with the
2 settlement Claims Administrator. Where more than one entity or claimant has registered a particular
3 claim, that claim goes into “conflict” status and all parties seeking to control the claim receive notice
4 of the conflict. It was through this process that Cascade learned, in 2024, that it was in conflict with
5 Optium on a number of claims, and, after some investigation, that Optium had breached the 2015
6 Settlement by claiming to have the authority to file the claims of certain Cascade Clients.

7 34. Optium breached the 2015 Settlement in two ways. First, Optium interfered with
8 Cascade Agency Contracts (breach of the Non-Interference Provisions) by encouraging Cascade
9 clients to terminate their agreements with Cascade. Second, Optium has misconstrued the 2015
10 Settlement, claiming that it does not have to assume Cascade Agency Contracts for claims that
11 Optium purchased from existing Cascade clients. Optium also claims that it (and not Cascade) has
12 the right to control, file and collect on the claims at issue (breach and anticipatory breach of the
13 Cooperation Provisions and Cascade Claim Control Rights).

14 35. Optium’s construction of the intent and function of the 2015 Agreement is not only
15 legally incorrect, but also irrational. Optium has construed the Non-Interference Provisions as
16 imposing a ministerial obligation whose only function is to provides Optium a safe harbor from
17 which it can avoid its obligations under the Cooperation Provisions. Taken to its extreme, Optium’s
18 position is that even if it had affirmative and actual knowledge of the existence of a Cascade Agency
19 Contract at the time it bought a claim from a Cascade Client, it would not have any obligation to
20 assume the agency contract if the seller did not disclose its existence to Optium. For example,
21 Cascade has referred several Cascade Clients to Optium who wished to sell their Visa claims. Under
22 Optium’s contractual interpretation, even when a Cascade Client is referred to Optium by Cascade,
23 Optium could avoid assuming the Cascade Agency Contract if the Cascade Client failed to disclose
24 the existence of the Cascade Agency Contract.

25 **C. Claims at Issue**

26 36. What follows details the claims in dispute here. Every claim in dispute involves
27 Cascade Agency Contracts that existed before the departure of Kornswiet, Sloan and Raleigh from
28 Cascade. Thus, as of 2014, Kornswiet, Sloan and Raleigh (and later Alexander) had constructive, if

1 not actual, knowledge of the existence of the Cascade Agency Contracts in dispute here.

2 37. Not one conflict between Cascade and Optium concerns class members who signed
3 agreements with Cascade after Kornswiet's departure. This is curious, since Cascade continued to
4 enter into agency contracts with more than eighty Visa Antitrust Litigation class members after
5 Kornswiet's departure from Cascade, and yet, upon information and belief, Optium did not buy a
6 single claim from any of those Cascade clients. It is improbable that this occurred randomly. Based
7 on available evidence, it appears likely that Cascade's contact list was a primary source used by
8 Optium when soliciting Visa class members. Cascade does not yet know how many Visa claims, if
9 any, Optium purchased that it did not learn about from Cascade Proprietary Information.

10 **1. The Vail Corporation ("Vail")**

11 38. Spectrum entered into agency agreement with Vail on May 10, 2012. Accordingly,
12 under the 2015 Settlement, Vail is a "Company client" and Optium is required to assume the
13 Cascade Agency Contract with Vail.

14 39. Cascade preregistered Vail's claims in the Visa Antitrust Litigation in 2014. Between
15 2012 and 2024, Cascade contacted Vail more than fifty times and gathered data to use to maximize
16 Vail's claims.

17 40. Once the claims process was underway, around April 2024, the Claims Administrator
18 informed Cascade that several other parties—including Optium—had also registered Vail's claims,
19 putting those claims in conflict. The conflict showed that Optium had purchased Vail's claims. Prior
20 to receiving the conflict report, Cascade did not know that Optium had purchased Vail's claims.

21 41. Immediately upon receiving notice of conflict from the Claims Administrator,
22 Cascade contacted Vail to clear up the conflicts and forwarded to Vail a copy of the 2012 agency
23 contract. On April 26, 2024, Vail emailed Cascade denying any knowledge of its contract with
24 Cascade and stating that to the extent any such agreement existed, Vail was terminating it, effective
25 immediately.

26 42. Shortly thereafter, Optium told Cascade, for the first time, that Optium had purchased
27 Vail's claims in 2020. When terminating its contract with Cascade, Vail never told Cascade that
28 Vail no longer owned the claims, or that those claims had been sold to a third party (Optium). And

1 Vail never explained why it was terminating a contract to file a claim it no longer owned.

2 43. Upon information and belief, Optium knowingly and intentionally interfered with
3 Cascade's contract by encouraging Vail to deny knowledge of the existence of its agency contract
4 with Cascade, in breach of the Non-Interference Provisions of the 2015 Settlement. Upon further
5 information and belief, Optium did so to avoid its financial obligations to Cascade under the
6 Cooperation Provisions of the 2015 Settlement.

7 44. In subsequent conversations with Cascade, Optium claimed that because Vail did not
8 disclose the existence of the Cascade contract to Optium when Optium purchased Vail's claim in
9 2020, the Cooperation Provisions of the 2015 Settlement do not apply. (Notably, although Cascade
10 has requested it, Optium has not provided Cascade with any evidence of its claim that Vail did not
11 disclose the existence of the Cascade contract.)

12 45. Optium conflates the Non-Interference Provisions with the Cooperation Provisions to
13 arrive at this untenable position. The Cooperation Provision is not conditional on a class member's
14 disclosure to Optium of its agreement with Cascade. And in any event, Optium had actual or
15 constructive knowledge of Cascade's agreement with Vail because Kornswiet and other Optium
16 principals had access to that agreement when they were Cascade employees.

17 46. On July 2, 2024, Optium's counsel sent a letter to Class Counsel in the Visa Antitrust
18 Litigation, seeking to resolve the Vail conflict in Optium's favor. In that letter, Optium's counsel
19 referenced the April 26, 2024, email from Vail terminating Cascade's agency. By failing to
20 relinquish control of Vail's claim to Cascade, Optium is in breach of the Cascade Claim Control
21 Rights provisions.

22 47. Optium has also unequivocally told Cascade that it will not pay Cascade its agency
23 fee. This is an anticipatory breach of the Cooperation Provisions.

24 **2. Peet's Coffee and Tea, Inc. ("Peet's")**

25 48. Spectrum entered into agency agreement with Peet's Coffee and Tea, Inc. on June 2,
26 2005, as amended on August 2, 2011. Accordingly, under the 2015 Settlement, Peet's is a
27 "Company client" and Optium is required to assume the Cascade Agency Contract with Peet's.

28 49. Cascade preregistered Peet's claims in the Visa Antitrust Litigation in 2014. Between

1 2011 and 2024, Cascade contacted Peet's more than seventy times about the Visa case (and at least
2 thirty times regarding other settlements) and gathered data to use to maximize Peet's claims.

3 50. Once the claims process was underway, around April 2024, the Claims Administrator
4 informed Cascade that several other parties—including Crowell & Moring ("Crowell"), a law firm
5 that also serves as a third-party claim filer—had also registered Peet's claims, putting those claims
6 in conflict. Cascade would later learn that Optium purchased Peet's claims, and that Optium also
7 engaged Crowell to represent it in its present dispute with Cascade concerning the 2015 Settlement.

8 51. On May 2, 2024, Peet's sent Cascade a letter terminating Cascade's agency contract.
9 When Cascade asked Peet's if Crowell advised Peet's on the language of the termination letter,
10 Peet's declined to answer, citing attorney-client privilege. On information and belief, Optium
11 encouraged Peet's to terminate its contract with Cascade and directed Crowell to advise Peet's on
12 the specific language for the termination letter. This constitutes a breach by Optium of the Non-
13 Interference Provisions.

14 52. It was not until June 6, 2024, that Optium finally revealed to Cascade that it had
15 purchased Peet's claims in January 2017. This surprised Cascade, since neither Optium nor Peet's
16 had disclosed this fact previously. Optium further claims that when it bought Peet's claim, Peet's did
17 not disclose the existence of the agency contract with Cascade. Optium has rejected Cascade's
18 request for evidence that it asked if Peet's had an agency agreement with Cascade at the time
19 Optium tendered its offer to buy Peet's claim. And in any event, Optium had actual or constructive
20 knowledge of Cascade's agreement with Peet's because Kornswiet and other Optium principals had
21 access to that agreement when they were Cascade employees.

22 53. As with the Vail claim, Optium has conflated the Non-Interference Provisions and
23 the Cooperation Provisions to argue that because Peet's did not disclose the existence of the Cascade
24 contract to Optium when Optium purchased Peet's claim in 2017, the Cooperation Provisions of the
25 2015 Settlement do not apply.

26 54. Optium has also unequivocally told Cascade that it will not pay Cascade its agency
27 fee. This is an anticipatory breach of the Cooperation Provisions. Optium also refuses to relinquish
28 control of Peet's claim and is thus in breach of the Cascade Claim Control Rights provisions.

1 **3. Sleepy's and The Sleep Train**

2 55. Claimco LLC entered into agency agreement on September 1, 2011, with Sleepy's,
3 LLC ("Sleepy's"). Accordingly, under the 2015 Settlement, Sleepy's is a "Company client" and
4 Optium is required to assume the Cascade Agency Contract with Sleepy's.

5 56. Claimco LLC entered into agency agreement on August 26, 2011, with The Sleep
6 Train, Inc. ("The Sleep Train"). Accordingly, under the 2015 Settlement, The Sleep Train is a
7 "Company client" and Optium is required to assume the Cascade Agency Contract with The Sleep
8 Train.

9 57. Cascade preregistered the Sleepy's and The Sleep Train claims with the Claims
10 Administrator in 2014. Between 2011 and 2024, Cascade contacted Sleepy's more than eighty times
11 and The Sleep Train at least fifty times and gathered data to use to maximize their respective claims.

12 58. Upon information and belief, Mattress Firm Holding Corp. ("Mattress Firm")
13 acquired The Sleep Train in 2014 and Sleepy's in 2016.

14 59. Optium purportedly purchased Sleepy's and The Sleep Train's claims from Mattress
15 Firm on April 17, 2020.

16 60. On December 13, 2021, Mattress Firm sent a letter to Cascade purporting to
17 terminate the Sleepy's and The Sleep Train agency agreements. On information and belief, Optium
18 provoked Mattress Firm to terminate those contracts with Cascade, which constitutes a breach by
19 Optium of the Non-Interference Provisions.

20 61. Optium further asserts that when it bought the Sleepy's and The Sleep Train claims,
21 Mattress Firm did not disclose the existence of the agency contract with Cascade. Although Cascade
22 has requested it, Optium has provided no evidence of this. And in any event, Optium had actual or
23 constructive knowledge of Cascade's agreements with Sleepy's and The Sleep Train because
24 Kornswiet and other Optium principals had access to that agreement when they were Cascade
25 employees.

26 62. As with Vail and Peet's, Optium has argued that because Mattress Firm did not
27 disclose its agency contracts with Cascade, Optium is not required to and will not pay Cascade its
28 agency fee. This is an anticipatory breach of the Cooperation Provisions. Optium also refuses to

1 relinquish control of the Sleepy's and The Sleep Train claims and thus in breach of the Cascade
2 Claim Control Rights provisions.

3 **4. FullBeauty Brands, L.P. fka Redcats USA, Inc. ("FullBeauty Brands")**

4 63. Spectrum entered into agency agreement with Redcats USA, Inc. ("Redcats") on
5 October 3, 2005. Redcats changed its name several times and in 2015 became FullBeauty Brands,
6 L.P. Accordingly, under the 2015 Settlement, FullBeauty Brands is a "Company client" and Optium
7 is required to assume the Cascade Agency Contract – and the financial and control benefits to
8 Cascade - with FullBeauty Brands fka Redcats USA, Inc.

9 64. On information and belief, FullBeauty Brands filed for Chapter 11 bankruptcy in
10 2019. Within 24 hours of filing, FullBeauty Brands received court approval for a prepackaged
11 bankruptcy restructuring plan ("FullBeauty Restructuring Plan") that allowed the company to exit
12 bankruptcy and continue operating.

13 65. The FullBeauty Restructuring Plan provides that all executory contracts were
14 assumed. For bankruptcy purposes, the Cascade Agency Contract with FullBeauty Brands was an
15 executory contract. Therefore, the Cascade Agency Contract with FullBeauty Brands survived the
16 bankruptcy and remains a valid and enforceable contract.

17 66. Optium purportedly purchased FullBeauty Brands claims. As of the filing of this
18 complaint, Optium has refused to provide Cascade with any information about when and under what
19 circumstances Optium purchased the claims.

20 67. Upon information and belief, Optium failed to ask FullBeauty Brands whether it had
21 an existing agency contract with Cascade. Optium thus breached the Non-Interference Provisions of
22 the 2015 Settlement. And in any event, Optium had actual or constructive knowledge of Cascade's
23 agreement with FullBeauty Brands because Kornswiet and other Optium principals had access to
24 that agreement when they were Cascade employees.

25 68. Optium has told Cascade that it has no obligation to assume the Cascade Agency
26 Agreement Contract with FullBeauty Brands, and that it will not pay Cascade its agency fee. This is
27 an anticipatory breach of the Cooperation Provisions. Optium also refuses to relinquish control of
28 the FullBeauty Brands claims and thus in breach of the Cascade Claim Control Rights provisions.

1 **5. Other Conflicts Not Yet Discovered**

2 69. Cascade is currently not aware of any other Cascade Client claims purchased by
3 Optium and will amend this complaint to add additional claims if and when they are discovered.

4 **FIRST CAUSE OF ACTION**

5 **Breach of Contract**

6 **(Against Optium)**

7 70. Plaintiff re-alleges and incorporates herein by reference each and every allegation of
8 the preceding paragraphs as though fully set forth herein.

9 71. On or about May 28, 2015, Plaintiff entered into a written contract with Optium
10 Capital LLC.

11 72. Plaintiff, on its own and through its agents, has at all times performed the terms of
12 the contract in the manner specified by the contract and has remained ready and able to continue
13 such performance.

14 73. Optium has failed and refused, and continues to refuse, to tender performance as
15 required by the contract. Optium has encouraged Cascade clients to cancel their agency contracts in
16 violation of the Non-Interference Provisions of the contract. Optium has also prevented Plaintiff
17 from managing certain claims as required by the Cascade Claim Control Rights of the contract.

18 74. Defendant's failure to perform its obligations under the contract has caused direct
19 damage to Plaintiff in an amount to be determined at trial.

20 **SECOND CAUSE OF ACTION**

21 **Anticipatory Breach of Contract**

22 **(Against Optium)**

23 75. Plaintiff re-alleges and incorporates herein by reference each and every allegation of
24 the preceding paragraphs as though fully set forth herein.

25 76. On or about May 28, 2015, Plaintiff entered into a written contract with Optium
26 Capital LLC.

27 77. Plaintiff, on its own and through its agents, has at all times performed the terms of
28 the contract in the manner specified by the contract and has remained ready and able to continue

1 such performance.

2 78. Optium refuses to release its claims of control with the Claims Administrator, thus
3 keeping the subject claims in conflict status and preventing Cascade from using its expertise to
4 ensure full value is received, as is required by the Cascade Claim Control Rights in the 2015
5 Settlement.

6 79. Optium has clearly and positively indicated that it will not pay Plaintiff's agency fees
7 as required by the Cooperation Provisions in Section 2 of the contract. Optium is thus in anticipatory
8 breach of the contract.

9 80. Defendant's failure to perform its obligations under the contract will cause direct
10 damage to Plaintiff in an amount to be determined at trial.

11 **THIRD CAUSE OF ACTION**

12 **Declaratory Judgment**

13 **(Against Optium)**

14 81. Plaintiff re-alleges and incorporates herein by reference each and every allegation of
15 the preceding paragraphs as though fully set forth herein.

16 82. An actual controversy has arisen between Plaintiff and Defendant Optium as to their
17 respective rights and duties under the Cooperation Provisions of the 2015 Settlement. Specifically,
18 Plaintiff asserts that the Cooperation Provisions apply in full to the Vail, Peet's, Sleepy's, The Sleep
19 Train, and FullBeauty Brands claims. Optium has clearly indicated that it has no obligations to
20 Plaintiff with respect to those claims because, according to Optium, those entities did not disclose
21 the existence of their contracts with Plaintiff to Optium when Optium purchased their claims.

22 83. A present and actual controversy exists between Plaintiff and Defendant concerning
23 the legal rights and duties of the parties relating to the Cooperation Provisions of the 2015
24 Settlement.

25 84. A judicial declaration regarding Cascade's and Optium's respective rights and
26 obligations is warranted and necessary because, as alleged above, Cascade has no adequate remedy
27 at law. Such a declaration is necessary and appropriate at this time because Defendant has refused to
28 relinquish to Plaintiff all control of the subject claims, as required by the Cascade Claim Control

1 Rights provisions, and Defendant has further declared that it will not pay Plaintiff its agency fee on
2 those claims, as required by the Cooperation Provisions.

3 **FOURTH CAUSE OF ACTION**

4 **In the Alternative: Intentional Interference with Prospective Economic Relations**
5 **(Against All Defendants)**

6 85. Plaintiff re-alleges and incorporates herein by reference each and every allegation of
7 the preceding paragraphs as though fully set forth herein.

8 86. Cascade and each of Vail, Peet's, Sleepy's, The Sleep Train, and FullBeauty Brands
9 were in an economic relationship that probably would have resulted in an economic benefit to
10 Cascade.

11 87. Defendants Optium, Kornswiet, Raleigh, Sloan and Alexander each knew of each of
12 those economic relationships.

13 88. By engaging in the conduct set forth herein, Optium, Kornswiet, Raleigh, Sloan and
14 Alexander each intended to or knew that disruption of those relationships was certain or
15 substantially certain to occur.

16 89. As a result of Defendants' actions, each of those relationships was disrupted,
17 resulting in harm to Cascade. Defendants' conduct was a substantial factor in causing Cascade's
18 harm.

19 **FIFTH CAUSE OF ACTION**

20 **Preliminary and Permanent Injunction**

21 **(Against All Defendants)**

22 90. Plaintiff re-alleges and incorporates herein by reference each and every allegation of
23 the preceding paragraphs as though fully set forth herein.

24 91. On or about May 28, 2015, Cascade and Optium entered into the 2015 Settlement.

25 92. Under the terms of the 2015 Settlement, and in particular, the Cascade Claim Control
26 Rights provisions, for each Cascade Agency Client from whom Optium purchases a claim, Cascade
27 is required to notify the Claims Administrator of its role in servicing the claims, perform filing
28 services, and receive the monies paid on those claims.

93. Also under the Cascade Claim Control Rights provisions, “Optium will not subvert these claims by directing the Claims Administrator to distribute settlement checks to Optium.”

94. Defendants have breached the 2015 Settlement by registering the Vail, Peet's, Sleepy's, The Sleep Train, and FullBeauty Brands claims with the Claims Administrator, and by continuing to assert a purported right to control those claims over Cascade's objections.

95. By putting the claims into conflict, Defendants have prevented Cascade from servicing and eventual monetizing the claims, which will result in the full value of those assets and others not being obtained to the detriment of Cascade.

96. Unless and until enjoined and restrained by this Court, Defendants' conduct will continue to cause Cascade great and irreparable harm in that it undermines its lawful and contractual right to manage and file claims, and to receive the proceeds of those claims from the Claims Administrator.

97. While Cascade has suffered, and is continuing to suffer, growing monetary damages as the result of Defendants' conduct, and while reserving the right to seek those damages in this or another action, the Cascade Claim Control Rights can only be secured if Defendants cease their efforts to obstruct Plaintiff's control. Plaintiff thus has no adequate remedy at law.

98. Unless Defendant is restrained and enjoined from continuing to assert with the Claims Administrator control over the subject claims, in violation of the 2015 Settlement, the injury to Cascade will be irreversible.

99. Although the monetary damage to Cascade (to the extent it can be calculated) can be remedied through damages, no adequate remedy at law will make Plaintiff whole from the difficult-to-quantify diminution in value of the claims resulting from Optium's lack of experience in the claim servicing industry. Nor does any adequate remedy at law exist by which the rights and duties of the parties may be determined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That the Court issue a declaration that the Vail, Peet's, Sleepy's, The Sleep Train, and FullBeauty Brands claims are subject to the Cascade Claim Control Rights and

- 1 Cooperation Provisions of the 2015 Settlement, and Defendant Optium must assume the
- 2 Cascade Agency Agreement for each pursuant to the 2015 Settlement;
- 3 2. For a temporary, preliminary, and permanent injunction enjoining Defendants from
- 4 continuing to assert control over the filing of the claims at issue;
- 5 3. For a judgement, in the alternative, that Defendants have intentionally interfered with the
- 6 Cascade Agency Contracts at issue;
- 7 4. That Plaintiff be awarded general, special, and/or compensatory damages it has suffered
- 8 in an amount to be proven at trial;
- 9 5. Disgorgement of profits and cost of modification for Defendants' breaches of contract;
- 10 6. That Plaintiff be awarded attorney's fees and costs of suit as permitted by law; and
- 11 7. Such other and further relief as the Court may deem proper.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a jury trial for all causes of action so triable.

14

15 DATED: August 13, 2024

16 Respectfully submitted,
NASSIRI & JUNG LLP

17

18

19 By: _____

Kassra Nassiri
Attorneys for Plaintiff
CASCADE SETTLEMENT SERVICES LLC

20

21

22

23

24

25

26

27

28

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Kassra P. Nassiri (215405) Russell Taylor (320375) NASSIRI & JUNG LLP 1700 Montgomery Street, Suite 207, San Francisco, California 94111 TELEPHONE NO.: (415) 762-3100 FA NO.: : (415) 534-3200 EMAIL ADDRESS: kass@njfirm.com russ@njfirm.com ATTORNEY FOR (Name): Plaintiff CASCADE SETTLEMENT SERVICES LLC	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California County of Marin 08/13/2024 James M. Kim, Clerk of the Court By: D. Harrison, Deputy
SUPERIOR COURT OF CALIFORNIA COUNTY OF MARIN STREET ADDRESS: 3501 Civic Center Drive, San Rafael, California 94903 MAILING ADDRESS: P.O. Bo 49 , San Rafael, California 94913 CITY AND ZIP CODE: San Rafael 94903 BRANCH NAME:	
CASE NAME: Cascade Settlement Services LLC v. Optium Capital LLC, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> U ed <input type="checkbox"/> L ed (Amount demanded exceeds \$35,000) (Amount demanded is \$35,000 or less)	Co e Ca e De g a o <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: CV0003663 JUDGE: DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check ☐ below for the case type that best describes this case:

A o Tor <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) O er PI PD D Per o a l r Pro er Da age ro gf Dea Tor <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI PD WD (23) No -PI PD D O er Tor <input type="checkbox"/> Business tort unfair business practice (07) <input type="checkbox"/> Civil rights (0) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI PD WD tort (35) E o e <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Co ra <input checked="" type="checkbox"/> Breach of contract warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (1) <input type="checkbox"/> Other contract (37) Rea Pro er <input type="checkbox"/> Eminent domain Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) U a f De a er <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (3) d a Re e <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Pro o a Co e C L ga o Ca R e of Co r r e 00 0 <input type="checkbox"/> Antitrust Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (2) <input type="checkbox"/> Environmental To ic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally comple case types (41) E for e e of dg e <input type="checkbox"/> Enforcement of judgment (20) M e a eo C Co a <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) M e a eo C Pe o <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	--

2. This case ☐ is ☒ is not comple under rule 3.400 of the California Rules of Court. If the case is comple , mark the factors requiring e ceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> E tensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 5
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 13, 2024

Kassra P. Nassiri

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (e cept small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is comple under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a comple case, this cover sheet will be used for statistical purposes only.

Page 1 of

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiff or Defendant: If you are filing a first paper (for example, a complaint) in a civil case, you complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties: A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties: In complete cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complete. If a plaintiff believes the case is complete under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complete, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complete, or, if the plaintiff has made no designation, a designation that the case is complete.

CASE TYPES AND EXAMPLES

Automotive

Auto (22) Personal Injury Property Damage Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other Personal Injury**Product Liability**

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury
Wrongful Death

Product Liability *(not asbestos or toxic/environmental)* (24)

Medical Malpractice (45)

Medical Malpractice

Physicians & Surgeons

Other Professional Health Care Malpractice

Other PI PD WD (23)

Premises Liability (e.g., slip and fall)

Intentional Bodily Injury PD WD (e.g., assault, vandalism)

Intentional Infliction of

Emotional Distress

Negligent Infliction of

Emotional Distress

Other PI PD WD

Other PI PD WD

Business Tort Unfair Business Practice (07)

Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (0)

Defamation (e.g., slander, libel) (13)

Fraud (16)

Intellectual Property (19)

Professional Negligence (25)

Legal Malpractice

Other Professional Malpractice

(not medical or legal)

Other Non-PI PD WD Tort (35)

Employment

Wrongful Termination (36)

Other Employment (15)

Contract

Breach of Contract Warranty (06)

Breach of Rental Lease

Contract *(not unlawful detainer or wrongful eviction)*

Contract Warranty Breach Seller

Plaintiff *(not fraud or negligence)*

Negligent Breach of Contract

Warranty

Other Breach of Contract Warranty

Collections (e.g., money owed, open book accounts) (09)

Collection Case Seller Plaintiff

Other Promissory Note Collections Case

Insurance Coverage *(not provisionally complex)* (1)

Auto Subrogation

Other Coverage

Other Contract (37)

Contractual Fraud

Other Contract Dispute

Real Property

Eminent Domain Inverse

Condemnation (14)

Wrongful Eviction (33)

Other Real Property (e.g., quiet title) (26)

Writ of Possession of Real Property

Mortgage Foreclosure

Quiet Title

Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Defendant

Commercial (31)

Residential (32)

Drugs (3) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Defendant's Real Estate

Asset Forfeiture (05)

Petition Re: Arbitration Award (11)

Writ of Mandate (02)

Writ Administrative Mandamus

Writ Mandamus on Limited Court

Case Matter

Writ Other Limited Court Case Review

Other Judicial Review (39)

Review of Health Officer Order

Notice of Appeal Labor Commissioner

Appeals

Professional Corporation

Antitrust Trade Regulation (03)

Construction Defect (10)

Claims Involving Mass Tort (40)

Securities Litigation (2)

Environmental Toxic Tort (30)

Insurance Coverage Claims

(arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)

Abstract of Judgment (Out of County)

Confession of Judgment *(non-domestic relations)*

Sister State Judgment

Administrative Agency Award

(not unpaid taxes)

Petition Certification of Entry of

Judgment on Unpaid Taxes

Other Enforcement of Judgment Case

Money and Credit

RICO (27)

Other Complaint *(not specified above)* (42)

Declaratory Relief Only

Injunctive Relief Only *(non-harassment)*

Mechanics Lien

Other Commercial Complaint

Case *(non-tort/non-complex)*

Other Civil Complaint

(non-tort/non-complex)

Money and Credit

Partnership and Corporate

Governance (21)

Other Petition *(not specified above)* (43)

Civil Harassment

Workplace Violence

Elder Dependent Adult Abuse

Election Contest

Petition for Name Change

Petition for Relief From Late Claim

Other Civil Petition

Superior Court of the State of California County of Marin 3501 Civic Center Dr PO Box 4988 San Rafael, CA 94913-4988	<i>FOR COURT USE ONLY</i> ELECTRONICALLY FILED Superior Court of California County of Marin 08/13/2024 James M. Kim, Clerk of the Court D. Harrison, Deputy
CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al	
Notice – Judicial Assignment	Case Number: CV0003663

To All Parties and their Attorneys of Record:

This case has been assigned to **Judge Stephen P. Freccero** for all purposes. All future hearings will be scheduled before this assigned Judge in **Courtroom A**.

Notice: This assignment for all purposes must be provided to all non-appearing parties by the moving party.

I am over the age of 18 years and not a party to the action above. My business address is 3501 Civic Center Dr, San Rafael, CA 94913. On August 13, 2024, I served this **Notice – Judicial Assignment** on the interested parties in said action to the addresses indicated below:

Kassra P. Nassiri
kass@njfirm.com

Electronically Served CCP1013(g)

I declare under penalty of perjury, that the foregoing is true and correct.

James M. Kim
Clerk of the Court and Executive Officer
Superior Court of the State of California
County of Marin
By: D. Harrison, Deputy Clerk

Executed at San Rafael, California
On: August 13, 2024

Superior Court of the State of California County of Marin 3501 Civic Center Dr PO Box 4988 San Rafael, CA 94913-4988	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California County of Marin 08/13/2024 James M. Kim, Clerk of the Court D. Harrison, Deputy
CASCADE SETTLEMENT SERVICES LLC, a Delaware limited liability company vs. OPTIUM CAPITAL LLC, a Wyoming limited liability company et al	
Notice – Case Management Conference – GC68600	Case Number: CV0003663

Pursuant to **Local Rule (LR) 2.3**, the **Plaintiff** must serve the following documents together with the complaint on all parties:

- Notice - Case Management Conference (a copy of this notice)
 - Case Management Statement (Judicial Council Form CM-110)
 - Notice of Settlement of Entire Case (Judicial Council Form CM-200)
 - Alternative Dispute Resolution Informational Notice (CV006) together with the complaint on all parties.
1. The parties/counsel to this action shall comply with the filing and service deadlines in **LR 2.5** and **CRC3.110**.
 2. Parties must appear for: **Case Management Conference** on **December 13, 2024** at **9:00 am** in **Courtroom A**.
 3. The parties must be familiar with the case and be fully prepared to discuss the suitability of the case for binding or non-binding arbitration, mediation, or neutral case evaluation. **Counsel must discuss ADR options with their clients prior to attending the Case Management Conference** and should be prepared to discuss with the court their authority to participate in ADR.
 4. Case Management Conference Statements must be filed with the court and served on all parties at least 15 calendar days before the Case Management Conference. **(Late filing may result in issuance of sanctions.)**

I am over the age of 18 years and not a party to the action above. My business address is 3501 Civic Center Dr, San Rafael, CA 94913. On August 13, 2024, I served this **Notice** on the interested parties in said action to the addresses indicated below:

Kassra P. Nassiri
kass@njfirm.com

Electronically Served CCP1013(g)

I declare under penalty of perjury, that the foregoing is true and correct.

Executed at San Rafael, California
On: **August 13, 2024**

James M. Kim, Clerk of the Court and Executive Officer
Superior Court of the State of California, County of Marin
By: D. Harrison, Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR	STATE BAR NUMBER: STATE: ZIP CODE: FA NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:		
CASE MANAGEMENT STATEMENT (C): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$35,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$35,000 or less)		
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: Time: Dept.: Div.: Room: Address of court d r r ddr <input type="checkbox"/> No e of l e o A ear Tee o e ():		CASE NUMBER:

INSTRUCTIONS: A a a e o e e e ed a d e e fed for a o e ro ded

- Par or ar e r
a. ☐ This statement is submitted by party
b. ☐ This statement is submitted o by parties
- Co a a d ro - o a r d d r
a. The complaint was filed on d
b. ☐ The cross-complaint, if any, was filed on d
- Ser e r d d r
a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
b. ☐ The following parties named in the complaint or cross-complaint
(1) ☐ have not been served d
(2) ☐ have been served but have not appeared and have not been dismissed
(3) ☐ have had a default entered against them
c. ☐ The following additional parties may be added r d d
- De r o of a e
a. Type of case in ☐ complaint ☐ cross-complaint D r d

PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:	CASE NUMBER:
--	--------------

4. b. Provide a brief statement of the case, including any damages *r r d r d*
d d d d d r d d r d r d
r d d d r r r d r r

☐ *r d d d d*
5. *r or o r r a*
The party or parties request ☐ a jury trial ☐ a nonjury trial. *r r r d r*
r r r

6. **Tr a d a e**

- a. ☐ The trial has been set for *d*
b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint

c. Dates on which parties or attorneys will not be available for trial *d d r r*

7. **E a e d e g of r a**

The party or parties estimate that the trial will take

- a. ☐ days *r*
b. ☐ hours (short causes)

Tr a r e r e e a o r d r r

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:
b. Firm:
c. Address:
d. Telephone number:
e. Email address:
f. Fa number:
g. Party represented:

☐ Additional representation is described in Attachment .

9. **Prefere e**

☐ This case is entitled to preference *d*

10. **A er a e d e re o o ADR**

a. **ADR for a o a age** Please note that different ADR processes are available in different courts and communities read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.

- (1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referra o d a ar ra o or a o ed a o** (if available).

- (1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not e ceed the statutory limit.
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
(3) ☐ This case is e empt from judicial arbitration under rule 3. 11 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq.

PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:	CASE NUMBER:
--	--------------

10. c. In the table below, indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in

	The party or parties completing this form are g to participate in the following ADR processes	If the party or parties completing this form in the case are agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes r ' DR
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (d) <input type="checkbox"/> Agreed to complete mediation by (d) <input type="checkbox"/> Mediation completed on (d)
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (d) <input type="checkbox"/> Agreed to complete settlement conference by (d) <input type="checkbox"/> Settlement conference completed on (d)
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (d) <input type="checkbox"/> Agreed to complete neutral evaluation by (d) <input type="checkbox"/> Neutral evaluation completed on (d)
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (d) <input type="checkbox"/> Agreed to complete judicial arbitration by (d) <input type="checkbox"/> Judicial arbitration completed on (d)
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (d) <input type="checkbox"/> Agreed to complete private arbitration by (d) <input type="checkbox"/> Private arbitration completed on (d)
(6) Other (): <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (d) <input type="checkbox"/> Agreed to complete ADR session by (d) <input type="checkbox"/> ADR completed on (d)

PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:	CASE NUMBER:
--	--------------

11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other

Status:

13. Related Cases

- a. ☐ There are companion, underlying, or related cases.

(1) Name of case:

(2) Name of court:

(3) Case number:

(4) Status:

☐ Additional cases are described in Attachment 13a.

- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by *r*

14. Bifurcation

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action *r* *dr*

15. Other Motions

☐ The party or parties expect to file the following motions before trial *r* *d*

16. Discovery

- a. ☐ The party or parties have completed all discovery.

- b. ☐ The following discovery will be completed by the date specified *d r* *dd r*

Party

Description

Date

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated

PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:	CASE NUMBER:
--	--------------

17. **E o o ga o**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$35,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-9 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed **d r d r r d r r r**

18. **O e r e**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference

19. **Mee a d o fer**

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following

20. Total number of pages attached _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>N S r r d ddr</i> TELEPHONE NO.: _____ FA NO. <i>O</i> : _____ E-MAIL ADDRESS <i>O</i> : _____ ATTORNEY FOR (<i>N</i>) : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:	
NOTICE OF SETTLEMENT OF ENTIRE CASE	
CASE NUMBER:	
JUDGE: DEPT.:	

NOTICE TO PLAINTIFF OR OTHER PARTY SEE ING RELIEF

You must file a request for dismissal of the entire case within 45 days after the date of the settlement if the settlement is **o d o a**. You must file a dismissal of the entire case within 45 days after the date specified in item 1b below if the settlement is **o d o a**. Unless you file a dismissal within the required time or have shown good cause before the time for dismissal has e pired why the case should not be dismissed, the court will dismiss the entire case.

To e o r a ar e a d a ar ra o r o r - o e ed ADR e ra o ed a e:

1. This entire case has been settled. The settlement is:
 - a. ☐ **U o d o a** A request for dismissal will be filed within 45 days after the date of the settlement.
Date of settlement: _____
 - b. ☐ **Co d o a** The settlement agreement conditions dismissal of this matter on the satisfactory completion of specified terms that are not to be performed within 45 days of the date of the settlement. A request for dismissal will be filed no later than **d**
2. Date initial pleading filed: _____
3. Ne t scheduled hearing or conference:
 - a. Purpose: _____
 - b. ☐ (1) Date: _____
(2) Time: _____
(3) Department: _____
4. Trial date:
 - a. ☐ No trial date set.
 - b. ☐ (1) Date: _____
(2) Time: _____
(3) Department: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

PLAINTIFF PETITIONER: DEFENDANT RESPONDENT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE BY FIRST-CLASS MAIL

NOTICE OF SETTLEMENT OF ENTIRE CASE

(NOTE: Y r No e of Se e e of E re Ca e r r T r r d
r r)

1. I am at least 1 years old and o a ar o a o I am a resident of or employed in the county where the mailing took place, and my residence or business address is

2. I served a copy of the N S E r C by enclosing it in a sealed envelope with postage fully prepaid and

- a. ☐ deposited the sealed envelope with the United States Postal Service.
b. ☐ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The N S E r C was mailed:

- a. on d
b. from d

4. The envelope was addressed and mailed as follows:

a. Name of person served:

Street address:
City:
State and zip code:

c. Name of person served:

Street address:
City:
State and zip code:

b. Name of person served:

Street address:
City:
State and zip code:

d. Name of person served:

Street address:
City:
State and zip code:

☐ Names and addresses of additional persons served are attached. Y r OS

5. Number of pages attached _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:



(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

DISADVANTAGES OF ADR

If the case is resolved using ADR, the parties forgo their right to a public trial and they do not receive a decision by a judge or jury. If the case is not resolved using ADR and it proceeds to trial, the overall costs of the case may increase.

TYPES OF ADR

Mediation

In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Settlement Conferences

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

Arbitration

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. *Nonbinding* arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Neutral Evaluation

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

LOCAL ADR PROGRAMS

For a Directory of Mediators and Arbitrators or information about the Modest Means Mediation Program, contact the Marin County Bar Association (MCBA) by calling (415) 499-1314 or emailing info@marinbar.org. Additional information is also available on the MCBA website: www.marinbar.org.

STIPULATION TO USE ADR

If all parties in the action agree to participate in ADR, a *Stipulation to Use Alternative Dispute Resolution Process (CV002)* may be filed with the court. This form is available at www.marincourt.org or in the Clerk's Office.

Please note, **you are required to complete and submit the Notice of Settlement of Entire Case (Judicial Council Form CM-200) within 10 days of the resolution of your case.**

EXHIBIT B

1 Daniel A. Sasse (State Bar No. 236234)
2 CROWELL & MORING LLP
3 3 Park Plaza, 20th Floor
4 Irvine, California 92614
5 Telephone: 949.263.8400
6 Facsimile: 949.263.8414
7 DSasse@crowell.com

8 *Attorney for Defendants Optium Capital LLC,*
9 *Neil Kornswiet, Tony Raleigh, David Sloan,*
10 *and Hugh Alexander*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE CITY AND COUNTY OF MARIN**

13 CASCADE SETTLEMENT SERVICES LLC,
14 a Delaware limited liability company,

15 Plaintiffs,

16 v.

17 OPTIUM CAPITAL LLC, a Wyoming
18 limited liability company; NEIL
19 KORNSWIET, an individual; TONY
20 RALEIGH, an individual; DAVID SLOAN,
21 an individual; HUGH ALEXANDER, an
22 individual; and DOES 1-50, inclusive,

23 Defendants.

Case No. CV0003663

**NOTICE OF FILING OF NOTICE OF
REMOVAL**

1 Defendants Optium Capital LLC, Neil Kornswiet, Tony Raleigh, David Sloan, and Hugh
2 Alexander (collectively, “Defendants”) hereby give notice that on August 19, 2024, a Notice of
3 Removal of this action was filed in the United States District Court for the Northern District of
4 California. A true and correct copy of the Notice of Removal, the accompanying Declaration of
5 Daniel A. Sasse, and its exhibits are attached hereto as Exhibit 1.

6
7 Dated: August 19, 2024

Respectfully submitted,

8 CROWELL & MORING LLP

9 /s/ Daniel A. Sasse
10 Daniel A. Sasse (State Bar No. 236234)
11 CROWELL & MORING LLP
12 3 Park Plaza, 20th Floor
13 Irvine, California 92614
14 Telephone: 949.263.8400
15 Facsimile: 949.263.8414
16 DSasse@crowell.com

17 *Attorney for Defendants Optium Capital LLC,*
18 *Neil Kornswiet, Tony Raleigh, David Sloan,*
19 *and Hugh Alexander*

CERTIFICATE OF SERVICE

I, Daniel A. Sasse, the undersigned, hereby declare as follows:

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. I am employed by Crowell & Moring LLP, counsel of record for Defendants Optium Capital LLC, Neil Kornswiet, Tony Raleigh, David Sloan, and Hugh Alexander (collectively, “Defendants”) in the removed action captioned above. My business and mailing address is 3 Park Plaza, 20th Floor, Irvine, CA 92614.

On August 19, 2024, I served and caused to be served true and correct copies of the following document(s):

- Notice of Filing of Notice of Removal

by sending them via electronic transmission and couriering physical copies to be delivered on August 20, 2024 to the following persons at the mail addresses below:

Kassra P. Nassiri (215405)
(kass@njfirm.com)
Russell Taylor (320375)
russ@njfirm.com
NASSIRI & JUNG LLP
1700 Montgomery Street, Suite 207
San Francisco, California 94111
Telephone: (415) 762-3100
Facsimile: (415) 534-3200

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of August, 2024, in Irvine, California.

Dated: August 19, 2024


Daniel A. Sasse

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CASCADE SETTLEMENT SERVICES LLC

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kassra P. Nassiri/Russell Taylor
NASSIRI & JUNP LLP
1700 Montgomery Street, Suite 207, San Francisco, CA 94111 (415) 762-3100

DEFENDANTS

OPTIUM CAPITAL LLC; NEIL KORNSWIET; TONY RALEIGH; DAVID SLOAN; HUGH ALEXANDER

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Daniel A. Sasse
CROWELL & MORING LLP
3 Park Plaza, 20th Floor, Irvine, CA 92614 (949) 263-400

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3

	PTF	DEF
Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4
Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment Of Veteran's Benefits <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury -Medical Malpractice CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities-Employment <input type="checkbox"/> 446 Amer. w/Disabilities-Other <input type="checkbox"/> 448 Education	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS HABEAS CORPUS <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty OTHER <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee-Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC § 158 <input type="checkbox"/> 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent-Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC § 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input checked="" type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation-Transfer ☐ 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1332 (diversity), 28 U.S.C. § 1441 (removal of civil action), 28 U.S.C. § 1446 (procedure for removal of civil action)
Brief description of cause:
Antitrust

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. ☐ DEMAND \$ 75,000.00 +
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE Hon. Margo K. Brodie DOCKET NUMBER 1:05-md-01720-MKB-JO (E.D.N.Y.)

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) ☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.